

From: [Brandon Bogle](#)
To: [Josh Harris](#)
Subject: FW: [CT1B_Opioid_Team] FW: Zoom witnesses - live testimony
Date: Friday, July 24, 2020 9:12:11 AM

From: Troy Rafferty <trafferty@levinlaw.com>
Sent: Friday, July 24, 2020 9:11 AM
To: Brandon Bogle <bbogle@levinlaw.com>
Subject: Fwd: [CT1B_Opioid_Team] FW: Zoom witnesses - live testimony

CAUTION: This email message is **EXTERNAL**.

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Friday, July 17, 2020 2:12 PM
To: Peter H. Weinberger <PWeinberger@spanglaw.com>; Kaspar Stoffelmayr <kaspar.stoffelmayr@bartlitbeck.com>
Subject: Zoom witnesses - live testimony

[Kaspar and Pete, please forward as appropriate]

Dear Counsel:

Judge Polster asked me to convey the following information regarding the upcoming Track 1B trial.

Given the pandemic, the Judge will allow any witness who so desires to testify **live via videoconference** (e.g. Zoom). That is, if a witness wants to testify **live in person**, they can; but if they do **not** want to testify in person, they can instead choose to testify **live via videocon**.

This ruling does not change whether a subpoena is required or whether testimony must instead be presented by recorded video deposition. So, if a witness is outside of the subpoena power of the Court and does not want to voluntarily testify live (in person or via videocon), then that witness either does not testify at all, or their testimony will be presented via recorded depo. [Put more accurately, the FRCP still apply; the only exception is that live testimony can be via videocon instead of in person.]

Please also note that **in addition** to all of this, the Court will allow "live testimony from distant witnesses" consistent with the provisions in the Trial Order, dkt. no. 2594 at 3.

I am frankly not sure what additional protocols will be necessary surrounding a witness who chooses to testify at trial live via videocon, although I imagine your agreement regarding video deposition protocols will be helpful. I suggest you begin a conversation now on how to make this work as smoothly as possible. If you need to chat with court personnel regarding the technical side of things, I can arrange it, and if you want to chat with me I am of course available.

-David

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This email sent from:
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